

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

BRUCE WAYNE DRAPER,)
)
Petitioner,) NO. CIV-06-1333-HE
vs.)
)
DON BOWEN,)
)
Respondent.)

ORDER

Petitioner Bruce Draper instituted this action pursuant to 28 U.S.C. § 2254 seeking habeas corpus relief from a state court judgment ordering his involuntary commitment to a mental health facility. Pursuant to 28 U.S.C. § 636(b)(1)(B), this matter was referred to Magistrate Judge Doyle Argo, who recommended that petitioner's request for habeas relief be dismissed without prejudice for failure to exhaust state court remedies and recommended that the two claims asserted by petitioner that should appropriately have been brought pursuant to 42 U.S.C. § 1983 be dismissed without prejudice as well because they are not properly brought pursuant to 28 U.S.C. § 2254.

Petitioner has failed to object to the Report and Recommendation and, therefore, has waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). See 28 U.S.C. § 636(b)(1); LCvR 72.1(a). The court has also considered the merits of the action and substantially concurs with the Magistrate Judge's analysis.

Accordingly, the court adopts the Report and Recommendation and **DISMISSES** without prejudice to refiling all of petitioner's claims asserted in his petition for writ of habeas corpus.

IT IS SO ORDERED.

Dated this 2ND day of February, 2007.


JOE HEATON
UNITED STATES DISTRICT JUDGE